

**ENTERED**

January 18, 2017

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

RICARDO OCHOA,  
Petitioner,

V.

UNITED STATES OF AMERICA,  
Respondent.

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CIVIL ACTION NO. B-15-013  
CRIMINAL NO. B-13-535-4

**ORDER**

On December 16, 2016, the United States Magistrate Judge filed a Report and Recommendation [Doc. No. 22]. No objections have been lodged by either side and the time for doing so has expired.

Having reviewed all of the pleadings and the Report and Recommendation for plain error and having found none, it is the opinion of the Court that the Magistrate Judge's Report and Recommendation is hereby adopted. Therefore, Petitioner Ricardo Ochoa's Motion to Vacate, Set Aside or Correct his Sentence pursuant to 28 U.S.C. § 2255 [Doc. No. 1] is dismissed as waived. Alternatively, the motion is denied as meritless. The Government's motion for summary judgment [Doc. No. 11] is granted. Further, the Court denies the issuance of a Certificate of Appealability.

Signed this 17<sup>th</sup> day of January, 2017.



Andrew S. Hanen  
United States District Judge